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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,996	11/29/2000	Hendrikus Antonius Jacobus Kuenen	BO 43142	8549

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EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/21/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,996

Applicant(s)

KUENEN, HENDRIKUS
ANTONIUS JACOBUS

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 13 is objected to because of the following informalities: it recites "lifting device (23)" which should be changed to "(33)". Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
4. Regarding claim 6, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
5. Claim 9 recites the limitation "said components". There is insufficient antecedent basis for this limitation in the claim.
6. Claim 12 recites the limitation "the drive". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Benson et al [Pat. No. 3,309,981].

Benson et al teach a method of operating a fryer comprising a feed belt (Figure 1, 52), a base frame (Figure 3, 69), a top belt (Figure 1, 51), an auxiliary frame (Figure 3, 53), an oil bath (Figure 3, 201), adjustable supports (Figure 5a, 87), coupling means (Figure 5a, 91), a cover (Figure 1, 181), and a lifting device (Figure 1, 191).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson et al as applied above, in view of Naramura [Pat. No. 5,549,040].

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Benson et al teach the above mentioned concepts and components as well as cables, winders, and pulleys (Figure 1, 191-193). Benson et al do not teach a central control element, ramps connected to a cable, and the cable being pulled by a winder and pulleys. Naramura teaches an elevatable cooking device comprising ramps (Figure 1, 5), a central control element (Figure 6, M), and a pull element (Figure 1, 6). It would have been obvious to one of ordinary skill in the art to incorporate the lifting structure of Naramura into the invention of Benson et al since both are directed to cooking devices with dual surfaces, since Benson et al already includes adjustable lifting supports (Figure 5a, 87), and since the lifting structure of Naramura would provide the advantage of moving the upper surface in one step by simply engaging the motor (column 6, lines 45-55) thus providing easier operation as compared to the individual screws of Benson et al. It would have been obvious to one of ordinary skill in the art to provide a cable system as the pull element of Naramura, in view of Benson et al, since both are directed to cooking devices with dual surfaces, since Naramura already included a motor, and since cable systems were commonly used in cooking devices as shown by Benson et al (Figure 1, 191-193). Although not specifically recited, it would have been obvious to one of ordinary skill in the art to lift conveyors and frames of Benson et al out of the device when adjusting the lift support screws since Benson et al already teaches lifting out the conveyors and frames in order to clean and maintain the device (column 7, lines 62-70), and since this would have provided easier access to the screws.

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hunter [Pat. No. 2,709,955], Ferry [Pat. No. 1,760,979], Alden et al [Pat. No. 5,458,051], Sabin [Pat. No. 4,729,296], and Matzke [Pat. No. 3,340,792] teach cooking devices which can be raised and lowered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker
March 14, 2002


KEITH HENDRICKS
PRIMARY EXAMINER